



4410-15

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree and Environmental Settlement Agreement Under the Clean Air Act

On May 4, 2020, the United States Department of Justice lodged a proposed Consent Decree and Environmental Settlement Agreement (“Settlement Agreement”) in *In re PES Holdings, LLC, et al.*, Civil Action No. 19-11626 (Bankr. D. Del.), with the United States Bankruptcy Court for the District of Delaware.

The United States, on behalf of the United States Environmental Protection Agency (“EPA”), filed this Settlement Agreement with PES Holdings, LLC and its Debtor Affiliates (collectively the “Debtors”), including Debtor Philadelphia Energy Solutions Refining and Marketing LLC (“PESRM”), to resolve a dispute about the obligations and liabilities of PESRM and related parties under the Clean Air Act’s (“CAA”) Renewable Fuel Standard (“RFS”) program, which requires refiners to blend renewable fuels into gasoline or diesel fuel or obtain Renewable Identification Numbers (“RINs”) to meet Renewable Volume Obligations (“RVOs”) and a 2018 Consent Decree and Environmental Settlement Agreement in *In re PES Holdings, LLC, et al.*, Case No. 18-10122 (KG) (“2018 Consent Decree”).

Under the Settlement Agreement, Debtors have agreed to purchase and retire up to 161,830,963 Quality Assurance Plan (“QAP”) verified Q-RINs to resolve Debtors’ RINs liability under the 2018 Consent Decree and the CAA’s RFS program. A Q-RIN is a type of RIN that a registered independent third-party auditor verified using an approved QAP, and in accordance with the audit process laid out in 40 C.F.R. § 80.1472. *See* 40 C.F.R. § 80.1401. The Debtors’ Chapter 11 Plan (“Plan”) establishes a Liquidating Trust, which will, among other things, purchase and retire Q-RINs within 90 days of the Effective Date of the Settlement Agreement or

the Plan, whichever occurs later, subject to an actual price paid cap of \$10 million as provided in the Settlement Agreement. If PESRM, any Debtor, or the Liquidating Trust, receives an Excise Tax Refund from the United States, the Liquidating Trust will purchase and retire any remaining RIN balance within 90 days of receiving the refund; this is subject to the limitation that the Liquidating Trust's RIN retirement obligation ends when the Liquidating Trust has (a) retired the full amount of 161,830,963 Q-RINs, (b) purchased and retired \$22 million worth of Q-RINs, or (c) purchased and retired \$10 million worth of Q-RINs plus the number of Q-RINs worth the Excise Tax Refund from the United States if the refund is less than \$12 million.

The publication of this notice opens a period for public comment on the Settlement Agreement. Comments should be addressed to the Section Chief, Environment and Natural Resources Division, Environmental Enforcement Section, and should refer to *In re PES Holdings, LLC, et al.*, Civil Action No. 19-11626 (Bankr. D. Del.), DOJ Number 90-5-2-1-10993/2. All comments must be submitted no later than fifteen (15) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov
By mail	Section Chief U.S. DOJ – ENRD – EES P.O. Box 7611 Washington, D.C. 20044-7611

During the public comment period, the Settlement Agreement may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the Settlement Agreement upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library  
U.S. DOJ – ENRD  
P.O. Box 7611  
Washington, D.C. 20044-7611

Please enclose a check or money order for \$6.25 (25 cents per page reproduction cost) payable to the United States Treasury.

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